

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: NIERHAUS et al.

Application No.: 10/627,554

Filing Date: 7/25/2003

FOR: SYSTEM AND METHOD FOR
INDICATING A SPEAKER DURING A
CONFERENCE

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) Confirmation No.: 3548

) Group Art Unit: 2614

) Examiner: Karen L. Le

) **APPEAL BRIEF**

) Docket No.: 2003P04477US
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Mail Stop Appeal Brief – Patents (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants submit this Reply Brief in response to the Examiner's Answer mailed on March 31, 2010.

STATUS OF CLAIMS

Claims 1, 2, 4 – 18, and 20 – 23 are pending in this application. All pending claims stand rejected and are now being appealed.

Claims 3 and 19 have previously been canceled.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, 4 – 18, and 20 – 23 are rejected under 35 U.S.C. §103(a) as allegedly anticipated by U.S. Patent Publication No. 2003/0158900 (“Santos”) in view of U.S. Patent Publication No. 2004/0250201 (“Caspi”).

ARGUMENT

I. Claims 1, 2, 4 – 18, and 20 – 23 each include recitations, directly or indirectly, of “a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity”, “a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity”, and “wherein the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity”. (See claims 1, 17, 22, and 23)

II. Santos does not disclose, teach or suggest as argued in the Response to Argument, page 12 of the Examiner’s Answer, a first graphic indication that said first participant is speaking and a second graphic indication that said second participant is speaking. Instead of disclosing the claimed first “graphic indication” and the second “graphic indication” of the respective first and second participants speaking, Santos explicitly discloses **textual** indications of the participant’s status. As clearly demonstrated in the “STATUS” column of FIG. 3 (not labeled with a reference number), Santos provides **text** labels such as “SPEAKING”, “ACTIVE”, “LISTEN ONLY”, “HOST”, “DIALING”, AND “ABSENT”. As a matter of fact, the Examiner specifically cites and relies on the textual labels “SPEAKING” and “ACTIVE” for allegedly teaching the first and second “graphical” indications of the participants’ level of activity. Clearly the text labels “SPEAKING” and “ACTIVE” are not graphical indications. It is noted that Santos’ FIG. 3 is primarily a tabular listing with textual indicators except for the graphical image displaying a photo of each participant.

Appellant submits the differences between the recited first and second graphical indications and Santos’ text labels is not insignificant since a graphical

representation may convey more information than the one word textual labels explicitly disclosed by Santos.

III. Capsi does not teach, disclose, or suggest a first graphical indication having a first size based on a first level of activity, and a second graphic indication having a second size based on a second level of activity. Appellant notes Capsi specifically discloses a number of “icons that indicate annotations to the document” and that “different colors, shapes, fill patterns, flashing rates, sizes, etc. displayed in or on document 381 may indicate the providers of the annotations associated with the icons”. (Capsi, paragraph [0060], lines 4 – 10) Thus, the Capsi icons are explicitly related to annotations to a document and, moreover the attributes such as fill patterns and size of the icons explicitly indicates the providers of the annotations. There is no disclosure whatsoever that the size of the icons is based on anything other than the provider of the annotation. Accordingly, the size of the Capsi icon is not based on the level activity of a participant.

IV. The Examiner’s comments that it is “old and well known to use graphs such as icons to suggest level [sic] of activities” and “[T]he use of graphics, shapes and different levels does not rise to the level of patentability” appears misplaced and/or insufficient to support the rejections of record. Appellant notes the Examiner has not provided any support for what is asserted as old and well known. This statement concerning that which is supposedly old and well known appears to be at least a contradiction in the Examiner’s arguments since the Examiner actually cites and relies on the Santos and Capsi references to allegedly “teach” the graphical indications of different levels of activity. However, as discussed above, the Santos and Capsi references factually do not teach, disclose, or even suggest graphical indications to convey different levels of activity.

For the reasons stated herein and in the Appeal Brief, this Honorable Board is respectfully requested to reverse the pending claim rejections.

Respectfully submitted,

May 29, 210
Date

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